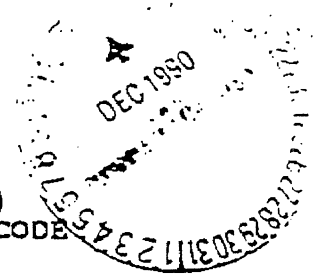


Appendix D

Local Programs

010335

AN ORDINANCE AMENDING TITLE 9 (HEALTH
AND SAFETY) BY ADDING CHAPTER 9.38 (WOODBURNING)
THE PENALTY AS BEING SET FORTH IN 9.38.060 OF THE CODES



BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

Section 9.38.010 Definitions

I.

A. Burn Down - that period of time, not to exceed three (3) hours, after declaring a no-burn period required for the cessation of combustion within any solid fuel heating device by withholding face or modifying the air-to-fuel ratio.

B. Sole Source - one or more solid fuel heating devices which constitute the only source of heat in a building for the purpose of space heating. No solid fuel heating device(s) shall be the sole source of heat if the building is equipped with a permanently installed furnace or heating system designed to heat the building that is connected or unconnected to its energy source, utilizing oil, natural gas, electricity, or propane.

C. Solid Fuel Heating Device - any fireplace, wood heater, wood stove, wood fired boiler, coal fired furnace, coal stove, or similar device burning any solid fuel used for aesthetic, cooking (excluding commercial cooking), or heating purposes inside a building.

D. Person - any individual, household, firm, partnership, corporation, society, association, and legal entity, and every officer, agent or employee thereof.

Section 9.38.020 No-Burn Periods

Following a burn down period, no person shall operate a solid fuel heating device within the City of El Paso during a no-burn period unless an exemption has been obtained. No-burn periods

010335

shall be declared by the City-County Health District upon review of available meteorological data and a determination that expected atmospheric conditions will not reasonably disperse wood smoke.

Section 9.38.030 Notice Required

Notice of no-burn periods shall be sufficient if published in a newspaper of general circulation within the City of El Paso, or if presented orally at least three (3) times during a six (6) hour period by at least two (2) radio or television stations operating within the City of El Paso, or if presented to the general public in the form of a recorded telephone message, the telephone number for which is published in the telephone directory or newspaper of general circulation within the City of El Paso.

Section 9.38.040 Exemptions

A. Exemptions may be granted by the Director of the City-County Health District if it is determined that a solid fuel heating device is the sole source of heat for the building in which it is situated. A temporary sole source exemption may be granted in the event of failure of the oil, natural gas, electricity, or propane heating system. An exemption may be granted for economic or health reasons. Also, an exemption shall be granted if the solid fuel heating device has been emission certified or exempted by the United States Environmental Protection Agency, provided, however, that there will be no visible emissions following a start-up period not to exceed thirty minutes and pellet fueled wood heaters shall not be subject to the provisions of this ordinance. Any person seeking an exemption shall do so by filing a written

petition with the Director of the City-County Health District.

Petitions shall:

1. State the applicant's name and mailing address, and
2. State the address from which the exemption is sought, and
3. State the period of time for which the exemption is sought, and
4. State the reasons for seeking the exemption.

B. Following receipt of the exemption request, the Director of the City-County Health District shall either grant the exemption, grant the exemption subject to conditions, or deny the exemption. Any action taken by the Director of the City-County Health District shall be by written order.

C. A person seeking an exemption may appeal the decision of the director of the City-County Health District to the El Paso City-County Board of Health. The Board of Health shall consider the exemption at the next regularly scheduled business meeting. The decision of the Board of Health shall be final.

Section 9.38.050 Rebuttable Presumption

It shall be a rebuttable presumption that the owner or tenant of a building, dwelling, or dwelling unit has authorized the operation of the solid fuel heating device.

Section 9.38.060 Violation Penalty

Any person violating any provision of this ordinance shall be deemed guilty of a misdemeanor punishable by a fine not to

exceed two thousand dollars. Each day's violation shall constitute a separate offense. In addition to any penalties provided for herein, this Chapter shall also be enforceable by injunction.

PASSED AND APPROVED this 11th day of December, 1990.

Attest:

Carole Hunter

City Clerk

John
Mayor

Approved as to form:

Jeff Hartwell
Assistant City Attorney

Approved as to content:

Lawrence N. Wiley MD
Director, City-County Health District

Approved by the Board of Health
Date: October 17, 1990

JH6:WOODBURN.ORD
Public Hearing 12/11/90
(ds)

4K

RESOLUTION

WHEREAS, pursuant to the Federal Clean Air Act, the El Paso area has been designated as a non-attainment area for three criteria pollutants (carbon monoxide/moderate, ozone/serious, and PM10/moderate) since the early 1970's, though the most recent official designation by the U.S. Environmental Protection Agency (EPA) was made in 1991 after the Clean Air Act Amendments of 1990; and

WHEREAS, Section 7509a. of the Clean Air Act (42 U.S.C. 7401 *et. seq.*), which addresses non-attainment areas along international borders, stipulates that any metropolitan area in the United States that is able to demonstrate that the area would be in compliance with the National Ambient Air Quality Standard (NAAQS) for any of the regulated pollutants if not for emissions from outside of the United States; and

WHEREAS, through the use of scientific modeling, the EPA approved a demonstration in 1992 by the Texas Natural Resource Conservation Commission; now the Texas Commission on Environmental Quality, establishing that the El Paso area was in compliance with the NAAQS for **particulate matter**; and

WHEREAS, the Texas Natural Resource Conservation Commission also submitted evidence to the EPA in 1995 and 1996 establishing that the El Paso area also would be in attainment with the NAAQS for the one-hour **ozone** and **carbon monoxide** standards if not for emissions from Mexico; and

WHEREAS, the City of El Paso and the County of El Paso have jointly cooperated to achieve the goals of the State Implementation Plan in place for the control of the regulated pollutants, including but not limited to the following activities:

For the control of **Carbon Monoxide**, the City and the County have required the following:

- * Oxygenated Gasoline from October 1 to March 31 of each year; and
- * Annual vehicle inspection program; and
- * Wood burning prohibition during evenings forecasted to exceed carbon monoxide; and
- * Plans to reduce vehicle miles traveled; and

For the control of **Ozone**, the City and the County have required the following:

- * Stage I and II Vapor recovery systems at gasoline dispensing facilities
- * Annual vehicle inspection program
- * Low-vapor pressure gasoline from June 1 to September 16 of each year
- * Control of minor sources of Volatile Organic Compounds such as vehicle body/paint shops, printers, and other spray painting operations
- * Plans to reduce vehicle miles traveled

For the control of **PM10** (particles of 10 micron in size), the City has required:

- * Paving of City streets,
- * Paving of City alleys,
- * Scheduled City street sweeping program,
- * Wood burning prohibition during evenings forecasted to exceed particulates.

WHEREAS, recent ambient air quality data indicate El Paso has attained the national ambient air quality standards for these three pollutants and is therefore eligible for consideration of re-designation to attainment status; and

WHEREAS, accurate designations under the Federal Clean Air Act help to ensure appropriate use of air quality control resources; and

WHEREAS, in order to re-designate the El Paso area, the State of Texas must request re-designation by the U.S. Environmental Protection Agency; and

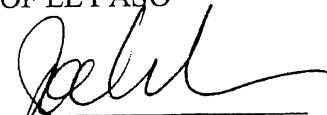
WHEREAS, improvements in measured levels of air pollutants in El Paso reflect on the success of regional and bi-national cooperation as well as a concerted effort by the citizens of all political jurisdictions in the El Paso Metropolitan Planning Organization community;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:

That the City of El Paso supports the El Paso Metropolitan Planning Organization's Transportation Policy Board request that the State of Texas submit the appropriate documentation supporting re-designation as warranted by the ambient data, whereby the re-designation request shall be sought for each pollutant individually, rather than collectively.

PASSED AND APPROVED THIS 14TH DAY OF OCTOBER 2003.

CITY OF EL PASO



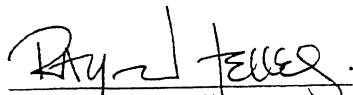
Joe Wardy, Mayor

ATTEST:



Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:



Raymond L. Telles
Assistant City Attorney

RESOLUTION 10-03

El Paso Metropolitan Planning Organization (El Paso MPO) Resolution on the Proposed Request by the State of Texas to the U.S. Environmental Protection Agency (EPA) Regarding Re-designation of El Paso, Texas as an Area Which is in Attainment of the National Ambient Air Quality Standards (NAAQS)

WHEREAS, pursuant to the Federal Clean Air Act, the El Paso area has been designated as a non-attainment area for three criteria pollutants (carbon monoxide/moderate, ozone/serious, and PM10/moderate) since the early 1970's, though the most recent official designation by the EPA was made in 1991 after the Clean Air Act Amendments of 1990; and

WHEREAS, Section 7509a. of the Clean Air Act (42 U.S.C. 7401 *et. seq.*), which addresses non-attainment areas along international borders, stipulates that any metropolitan area in the United States that is able to demonstrate that the area would be in compliance with the NAAQS for any of the regulated pollutants if not for emissions from outside of the United States; and

WHEREAS, through the use of scientific modeling, the EPA approve a demonstration in 1992 by the Texas Natural Resource Conservation Commission (TNRCC), now the Texas Commission on Environmental Quality, establishing that the El Paso area was in compliance with the NAAQS for particulate matter; and

WHEREAS, the Texas Natural Resource Conservation Commission also submitted evidence to the EPA in 1995 and 1996 establishing that the El Paso area also would be in attainment with the NAAQS for the one-hour ozone and carbon monoxide standards if not for emissions from Mexico; and

WHEREAS, the City of El Paso and the County of El Paso have jointly cooperated to achieve the goals of the State Implementation Plan in place for the control of the regulated pollutants, including but not limited to the following activities:

For the control of Carbon Monoxide, the City and the County have required the following:

- Oxygenated Gasoline from October 1 to March 31 of each year; and
- Annual vehicle inspection program; and
- Wood burning prohibition during evenings that are forecasted to exceed carbon monoxide; and
- Plans to reduce vehicle miles traveled; and

For the control of Ozone, the City and the County have required the following:

- State I and II Vapor recovery systems at gasoline dispensing facilities
- Annual vehicle inspection program
- Low-vapor pressure gasoline from June 1 to September 16 of each year
- Control of minor sources of Volatile Organic Compounds such as vehicle body/paint shops, printers, and other spray painting operations
- Plans to reduce vehicle miles traveled

For the control of PM 10 (particles of 10 micron in size), the City has required:

- Paving of City Streets,
- Paving of City alleys,
- Scheduled City street sweeping program,
- Wood burning prohibition during evenings that are forecasted to exceed particulates.

WHEREAS, recent ambient air quality data indicate El Paso has attained the national ambient air quality standards for these three pollutants and is therefore eligible for consideration of re-designation to attainment status; and

WHEREAS, accurate designations under the Federal Clean Air Act help to ensure appropriate use of air quality control resources; and

WHEREAS, in order to re-designate the El Paso area, the State of Texas must request re-designation by the U.S. Environmental Protection Agency; and

WHEREAS, the El Paso Metropolitan Planning Organization's Transportation Policy Board is the forum for cooperative transportation decision making, as designated by the U.S. Department of Transportation pursuant to 23 U.S.C. 134, by Governor of the State of Texas and by units of general purpose local government; and

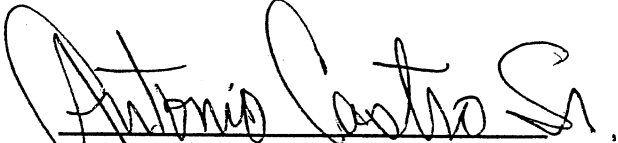
WHEREAS, improvements in measured levels of air pollutants in El Paso reflect on the success of regional and bi-national cooperation as well as concerted effort by the proud citizens of all political jurisdictions in the El Paso Metropolitan Planning Organization community;

NOW THEREFORE BE IT RESOLVED, that the El Paso MPO requests that the State of Texas submit the appropriate documentation supporting re-designation as warranted by the ambient data, after such consultation with the El Paso MPO as is required for the preparation of the Maintenance and Contingency plans required for such as re-designation submittal; and

BE IT FURTHER RESOLVED, that given the resources required to achieve re-designation, the El Paso MPO considers it advisable to seek re-designation for the pollutants individually, rather than collectively; and finally,

BE IT FURTHER RESOLVED, that said Maintenance and Contingency plans should include, to the extent possible, the protections afforded by Section 7509a. of the Federal Clean Air Act.

Given under our hand as representatives of the El Paso Metropolitan Planning Organization individually representing our political subdivisions and as a whole representing the El Paso MPO, this 21ST day of October, 2003.


Antonio Castro Sr., Mayor
Village of Vinton, Texas

ATTEST:


Camille Castillo, Village Clerk